

**REMARKS**

Claims 66, 90, 93, and 113 stand finally rejected, and claims 67-89, 91, 92, 94-111, and 114-124 are withdrawn from consideration. Reconsideration is respectfully requested in view of the following remarks.

Claims 66, 90, and 113 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Haimerl in view of Heider. The Examiner asserts in the Office Action that Haimerl shows a shoe and method of forming the shoe comprising an upper having an outer layer (12) and a functional layer (16) and an outsole (14) with upturned edges (14a) and an adhesive (22 and 26) and a portion of the hot-melt adhesive (22) being in direct contact with the edge of the functional layer (16) which requires sealing. The Examiner relies upon Heider as teaching the use of a reactive hot-melt adhesive for attaching shoe uppers to soles. Applicants respectfully disagree with the Examiner's conclusion.

Applicants assert that Haimerl does not show a waterproof shoe construction wherein an adhesive is in direct contact with the edge of the functional layer. Applicants submit that close examination of Fig. 1 in Haimerl clearly shows a space between the functional layer (16) and the hot-melt adhesive (22). Moreover, applicants direct the Examiner's attention to, for example, column 7, lines 63-66 of Haimerl, wherein it is stated that the lining (16) extends as far as the underside of the insole but preferably does not extend into the hot-melt glue, so that a direct transmission of force between the marginal strip and the insole is established by the hot melt glue. Therefore, applicants submit that it cannot be concluded, as the Examiner asserts, that Haimerl shows a functional layer in direct contact with hot-melt adhesive. Nor can it be concluded that such a modification to Haimerl would be obvious, since the disclosure clearly teaches away from this embodiment. Accordingly, applicants respectfully request that this rejection be withdrawn.

Neither of the other references relied upon by the Examiner provide the deficiencies of Haimerl. Accordingly, applicants submit that the rejection of claim 93 should be withdrawn as well.

Should the Examiner have any questions, the Examiner is invited to telephone applicants' undersigned representative.

Respectfully Submitted,



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